

### **REMARKS/ARGUMENTS**

The non-final Office Action of February 20, 2008 has been carefully reviewed and this paper is responsive thereto. By this response, claim 1 has been amended and claim 9 has been canceled. No new matter has been added to the application.

### **Objections to the Specification**

The Cross-Reference to Related Applications was objected to for informalities. By this response, paragraph [0001] has been amended to state the patent number of application Ser. No. 09/834,874, as required by the Office Action:

[0001] This is a division of application Ser. No. 09/834,874 filed Apr. 13, 2001, now U.S. Pat. No. 6,743,204, which is incorporated herein in its entirety. The following applications are related to the present application: "Spring Loaded Implantable Drug Infusion Device", assigned application Ser. No. 09/561,583, now U.S. Pat. No. 6,645,176; and "Implantable Drug Delivery Device with Peristaltic Pump Having A Biased Roller," assigned application Ser. No. 09/835,208, filed Apr. 13, 2001.

The title has also been amended as required by the Office Action to recite the following:

**METHOD FOR MANUFACTURING AN IMPLANTABLE DRUG DELIVERY DEVICE WITH PERISTALTIC PUMP HAVING A RETRACTABLE ROLLER**

The Applicants respectfully request that the objections to the specification be withdrawn.

### **Claim Rejections - 35 U.S.C. § 102**

Claims 1, 2, 4, 6, 8 and 16-19 were rejected under 35 U.S.C. 102(b) as being anticipated by Lepp et al. (US 4,142,845). Claim 1 has been amended to incorporate a feature of claim 9, and now recites the following:

1. A method of manufacture of an implantable drug infusion device comprising the steps of:
  - (a) assembling a race configured to support a pump tube along a path;
  - (b) assembling a roller assembly configured to apply pressure to the tube against the race at one or more points along the path, the roller assembly including at least one retracting roller;

- (c) inserting a part of a tool into a hole defined by an axle of the roller and moving the part of the tool away from the race;
- (d) retracting the roller away from the race; and
- (e) inserting a pump tube between the retracted roller and the race.

The amendment to claim 1 is supported by at least paragraphs [0038] and [0039] of the application as originally filed. The Office Action indicated that claim 9 would be allowable if rewritten in independent form. The feature from claim 9 of "inserting a part of a tool into a hole defined by an axle of the roller and moving the part of the tool away from the race" has been added into claim 1, from which claim 9 depends. Accordingly, amended claim 1 is allowable over Lepp et al. Claims 2, 4, 6, 8 and 16-19 depend from claim 1 and are also patentable over Lepp et al for the same reasons as amended claim 1 and for the additional features recited therein. The rejection is respectfully requested to be withdrawn.

#### **Claim Rejections - 35 U.S.C. § 103**

Claims 1, 3, 5 and 7 were rejected under 35 U.S.C. 103(a) as being unpatentable over Troutner (EP 0 239 255) in view of Lepp et al. As discussed above, claim 1 has been amended to include the feature of claim 9 of "inserting a part of a tool into a hole defined by an axle of the roller and moving the part of the tool away from the race". Claim 9 was indicated to be allowable if rewritten in independent form, thus amended independent claim 1 is patentable over Troutner and Lepp et al. Claims 3, 5 and 7 depend from claim 1 and are patentable over Troutner in view of Lepp et al. for at least the same reasons as amended claim 1 and for the additional features recited therein. The Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 103 rejection.

#### **Allowable Subject Matter**

Claims 9-15 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim

and any intervening claims. The Applicants would like to express their appreciation for the indication of the allowable subject matter.

**Conclusion**

It is respectfully submitted that the pending claims are in condition for allowance. The Examiner is invited to contact the undersigned at the telephone number provided below should it be deemed necessary to facilitate prosecution of the application.

Respectfully submitted,

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